
HOUSE BILL 1823

State of Washington

59th Legislature

2005 Regular Session

By Representatives Kretz, Serben, McCune, Armstrong, Rodne, Buri, Clements, Cox, Sump, Haler, Pettigrew, Grant, Holmquist, Walsh, Strow, Haigh and Kristiansen

Read first time 02/07/2005. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to assisting the economic development of
2 underserved rural communities by assisting an owner or operator that
3 has discontinued using an underground petroleum storage tank; amending
4 RCW 70.148.120 and 70.148.020; making an appropriation; and providing
5 an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 70.148.120 and 1991 c 4 s 1 are each amended to read
8 as follows:

9 The legislature recognizes as a fundamental government purpose the
10 need to protect the environment and human health and safety. To that
11 end the state has enacted laws designed to limit and prevent
12 environmental damage and risk to public health and safety caused by
13 underground petroleum storage tank leaks. Because of the costs
14 associated with compliance with such laws and the high costs associated
15 with correcting past environmental damage, many owners and operators of
16 underground petroleum storage tanks have discontinued the use of or
17 have planned to discontinue the use of such tanks. As a consequence,
18 isolated communities face the loss of their source of motor vehicle
19 fuel and face the risk that the owner or operator will have

1 insufficient funds to take corrective action for pollution caused by
2 past leaks from the tanks. In particular, rural communities face the
3 risk that essential emergency, medical, fire and police services may be
4 disrupted through the diminution or elimination of local sellers of
5 petroleum products and by the closure of underground storage tanks
6 owned by local government entities serving these communities.

7 The legislature also recognizes as a fundamental government purpose
8 the need to preserve a minimum level of economic viability in rural
9 communities so that public revenues generated from economic activity
10 are sufficient to sustain necessary governmental functions. The
11 closing of local service stations adversely affects local economies by
12 reducing or eliminating reasonable access to fuel for agricultural,
13 commercial, recreational, and transportation needs.

14 The legislature intends to assist small communities within this
15 state by authorizing:

16 (1) Cities, towns, and counties to certify that a local private
17 owner or operator of an underground petroleum storage tank meets a
18 vital local government, public health or safety need thereby qualifying
19 the owner or operator for state financial assistance in complying with
20 environmental regulations and assistance in taking needed corrective
21 action for existing tank leaks; and

22 (2) Local government entities to obtain state financial assistance
23 to bring local government underground petroleum storage tanks into
24 compliance with environmental regulations and to take needed corrective
25 action for existing tank leaks.

26 **Sec. 2.** RCW 70.148.020 and 1999 c 73 s 1 are each amended to read
27 as follows:

28 (1) The pollution liability insurance program trust account is
29 established in the custody of the state treasurer. All funds
30 appropriated for this chapter and all premiums collected for
31 reinsurance shall be deposited in the account. Expenditures from the
32 account shall be used exclusively for the purposes of this chapter
33 including payment of costs of administering the pollution liability
34 insurance and underground storage tank community assistance programs.
35 Expenditures for payment of administrative and operating costs of the
36 agency are subject to the allotment procedures under chapter 43.88 RCW
37 and may be made only after appropriation by statute. ((No)) The

1 director or director's designee may authorize expenditures from the
2 account. An appropriation ((is required)) may be made for other
3 expenditures from the account.

4 (2) Each calendar quarter, the director shall report to the
5 insurance commissioner the loss and surplus reserves required for the
6 calendar quarter. The director shall notify the department of revenue
7 of this amount by the fifteenth day of each calendar quarter.

8 (3) Each calendar quarter the director shall determine the amount
9 of reserves necessary to fund commitments made to provide financial
10 assistance under RCW 70.148.130 to the extent that the financial
11 assistance reserves do not jeopardize the operations and liabilities of
12 the pollution liability insurance program. The director shall notify
13 the department of revenue of this amount by the fifteenth day of each
14 calendar quarter. The director may immediately establish an initial
15 financial assistance reserve of five million dollars from available
16 revenues. The director may not expend more than fifteen million
17 dollars for the financial assistance program.

18 (4) This section expires June 1, ((2001-[2007])) 2007.

19 **Sec. 3.** RCW 70.148.130 and 1991 c 4 s 2 are each amended to read
20 as follows:

21 (1) Subject to the conditions and limitations of RCW 70.148.120
22 through 70.148.170, the director shall establish and manage a program
23 for providing financial assistance to public and private owners and
24 operators of underground storage tanks who have been certified by the
25 governing body of the county, city, or town in which the tanks are
26 located as meeting a vital local government, public health or safety
27 need. In providing such financial assistance the director shall:

28 (a) Require owners and operators, including local government owners
29 and operators, to demonstrate serious financial hardship;

30 (b) Limit assistance to only that amount necessary to supplement
31 applicant financial resources;

32 (c) Limit assistance to no more than one hundred fifty thousand
33 dollars in value for any one underground storage tank site of which
34 amount no more than seventy-five thousand dollars in value may be
35 provided for corrective action; and

36 (d) Whenever practicable, provide assistance through the direct

1 payment of contractors and other professionals for labor, materials,
2 and other services.

3 (2)(a) Except as otherwise provided in RCW 70.148.120 through
4 70.148.170, no grant of financial assistance may be used for any
5 purpose other than for corrective action and repair, replacement,
6 reconstruction, and improvement of underground storage tanks and tank
7 sites. If at any time prior to providing financial assistance or in
8 the course of providing such assistance, it appears to the director
9 that corrective action costs may exceed seventy-five thousand dollars,
10 the director may not provide further financial assistance until the
11 owner or operator has developed and implemented a corrective action
12 plan with the department of ecology.

13 (b) A grant of financial assistance may also be made to an owner or
14 operator that has discontinued using underground petroleum storage
15 tanks due to economic hardship. An owner or operator may receive a
16 grant up to one hundred fifty thousand dollars per retailing location
17 if:

18 (i) The property is located in an underserved rural area;

19 (ii) The property was previously used by a private owner or
20 operator to provide motor vehicle fuel; and

21 (iii) The property is at least ten miles from the nearest motor
22 vehicle fuel service station.

23 (3) When requests for financial assistance exceed available funds,
24 the director shall give preference to providing assistance first to
25 those underground storage tank sites which constitute the sole source
26 of petroleum products in remote rural communities.

27 (4) The director shall consult with the department of ecology in
28 approving financial assistance for corrective action to ensure
29 compliance with regulations governing underground petroleum storage
30 tanks and corrective action.

31 (5) The director shall approve or disapprove applications for
32 financial assistance within sixty days of receipt of a completed
33 application meeting the requirements of RCW 70.148.120 through
34 70.148.170. The certification by local government of an owner or
35 operator shall not preclude the director from disapproving an
36 application for financial assistance if the director finds that such
37 assistance would not meet the purposes of RCW 70.148.120 through
38 70.148.170.

1 (6) The director may adopt all rules necessary to implement the
2 financial assistance program and shall consult with the technical
3 advisory committee established under RCW 70.148.030 in developing such
4 rules and in reviewing applications for financial assistance.

5 NEW SECTION. **Sec. 4.** The sum of one million dollars, or as much
6 thereof as may be necessary, is appropriated from the pollution
7 liability insurance program trust account for the biennium year ending
8 July 1, 2007, to carry out the purposes of RCW 70.148.130(2)(b). The
9 director or director's designee shall administer the distribution of
10 these funds. A maximum of ten percent of the funds appropriated may be
11 used for administrative costs associated with the program.

12 NEW SECTION. **Sec. 5.** Sections 1 and 3 of this act expire June 1,
13 2007.

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